

MINUTES OF  
THE PARTNERSHIPS AND LIMITED LIABILITY COMPANIES COMMITTEE  
OF THE BUSINESS LAW SECTION OF THE STATE BAR OF CALIFORNIA

January 12, 2006

10:10 am – 11:07 am

Via Teleconference

Present: Brad Rogerson (Chair); Ed Gartenberg (Vice-Chair); Eric Sternberger (Secretary); Phil Jelsma; Bradley Brigante (Member); Charles McKee; Lemoine Skinner (Corporations Comm. Liaison); and Larry Doyle (Legislative Representative)

**I. Administrative Matters**

**A. Introduction**

1. Revised Meeting Schedule - The Chair noted that a corrected meeting schedule would be circulated and posted on-line. It was further decided that the October 2006 meeting would be set for the afternoon of Friday, October 6, 2006, and will be held at the State Bar Convention in Monterey, California.

2. Membership

a. Membership List - The Chair noted that the membership list has been updated on-line, and that he would be reviewing and confirming the membership status of Phil Jelsma and Charles McKee.

b. E-Bulletin Membership Drive - The Chair noted that the an email bulletin will be prepared announcing membership availability with the PLLC, soliciting articles and topics, and noting future PLLC articles in the Business Law News ("BLN").

c. New Applicants - The Chair agreed to follow up regarding two new potential PLLC applicants.

3. Updated Subcommittee Org. Chart - The organization chart was reviewed by the Committee and Bradley Brigante volunteered to be a member of the Legislation and Publications subcommittees.

**B. Business Law Section Committee Liaisons**

1. Executive Committee - no report

2. Corporations Committee - The Chair agreed to contact the co-Chairs of the Corporations Committee to investigate the possibility of a joint Corporations and PLLC Committee meeting in Sacramento for the March Meeting.

Lemoine Skinner then reported on the following active legislation and activities of the Corporations Committee:

*Active legislation includes bills that would:*

- a. Make pretrial jury waivers lawful, except in the consumer context; and
- b. Repeal certain provisions of the Corporate Disclosure Act that requires publicly held corporations to file duplicative information with the Secretary of State, and which is already required and provided to the Securities and Exchange Commission.

*Ongoing activities include:*

- a. The Corporations Committee is adapting and/or modifying Venture Capital Financing Forms for application to California law. These forms will be posted on their web site;
- b. The Corporations Committee is looking at the Close Corporation Model Act to provide for more default provisions.
- c. Revision to the Guide to Organizing a California Corporation should be out in April of 2006.

C. Upcoming Critical Dates and Deadlines

1. Fall Meeting Program Topics deadline is January 25, 2006: The Chair confirmed that he would submit the topic of the Revised Uniform Limited Partnership Act ("RERULPA") to the State Bar, and that the topic will be presented over a one-hour period by Ed Gartenberg and Phil Jelsma.
2. The Chair noted that the deadline for submissions to the BLN is March 31, 2006.

II. **Subcommittee Reports**

A. Publications Subcommittee. The Committee next discussed and confirmed that the following three articles will be submitted to the BLN prior to the March 31, 2006 deadline. Article submissions should be 10-15 typewritten pages, which equate to 3-6 printed pages in the BLN.

1. Brad Rogerson agreed to draft an article regarding Series LLC's; Eric Sternberger offered to assist as needed.
2. Ed Gartenberg offered to draft an article on Fiduciary Duties.
3. Phil Jelsma offered to draft an article on Non-Equity Partners.

B. Educational Programs Subcommittee.

1. State Bar Annual Meeting - CLE Program. Ed Gartenberg and Phil Jelsma agreed to prepare and present a one-hour program on RERULPA.
2. Other Educational Programs. The Chair noted that he may want to develop a CLE program on Special Allocation Rules.

C. Legislation Subcommittee.

1. RERULPA (Sponsored by Assemblyman Tom Harmon) remains in the applicable Senate Committee, and must clear that committee by July 2006 for additional consideration.

2. Affirmative Legislation Proposals are due no later than June 1, 2006. The Committee briefly discussed the following:

a. Uniform Statutory Trusts

b. A Uniform LLC Act may be presented in 2006. The Act does not presently include Series LLC's.

c. Professional LLC's - A Bill was proposed in 2005 that would have permitted certain so-called professions to operate as limited liability companies. This bill has not passed and it is unknown whether it will resurface in 2006.

d. An initiative is being prepared for circulation that would (i) limit punitive damages awards and (ii) provide businesses an opportunity to cure in regard to certain consumer related actions.

D. Webpage Subcommittee.

1. General Updates - The Chair agreed to follow up to make sure updates on the PLLC web site were made.

2. Practitioner's Corner - The Chair proposed a new section on the PLLC web site, similar to the Practitioner's Corner on the Corporations Committee web site. The Committee agreed that certain materials would be collected and updated for posting.

E. Case Law Developments Subcommittee.

1. *Butler v. Adoption Media, LLC*. The Federal District Court for the Northern District of California denied a motion requesting the application of Arizona Law for a defendant Arizona LLC transacting business in the State of California. The court deferred the issue until discovery was closed in the matter, and upon the anticipated presentation of a motion for summary judgment.

2. *Anderson, McPharlin & Conners v. Yee*. The Court of Appeal (2<sup>nd</sup> Circuit) affirmed that a departing partner from a law firm was bound to compensate his former partners upon departing and taking clients under a written partnership agreement, and that such compensation was not a prohibited fee-splitting arrangement.

III. **Practice Issues**

No issues were raised by the Committee members.

IV. **Meeting adjourned @ 11:07 am.**